

VZCZCXYZ0007
PP RUEHWEB

DE RUEHRL #1362 3021018
ZNY CCCCC ZZH
P 291018Z OCT 09
FM AMEMBASSY BERLIN
TO RUEHC/SECSTATE WASHDC PRIORITY 5609
INFO RUCNFRG/FRG COLLECTIVE
RUEHNE/AMEMBASSY NEW DELHI 0582

C O N F I D E N T I A L BERLIN 001362

SIPDIS
STATE FOR EUR/CE PETER SCHROEDER
STATE FOR ISN/MTR

E.O. 12958: DECL: 10/29/2034
TAGS: [ETTC](#) [MTCRE](#) [PGOV](#) [PREL](#) [PINR](#) [TSPA](#) [KSCA](#) [IN](#) [GM](#)
SUBJECT: GERMANY REQUESTS GUIDANCE ON EXPORT WITH MTCR "NO
UNDERCUT" POLICY IMPLICATIONS

Classified By: Global Affairs Officer David L. Fisher for
reasons 1.4 (b) and (d).

1. (U) THIS IS AN ACTION REQUEST. PLEASE SEE PARA 4.

2. (C) MFA Export Control Division Officer Dirk Haupt provided Global Affairs Officer on October 28 with non-paper requesting U.S. guidance by November 17 on a pending German export of extruded aluminum plates to India that may have been previously denied by the U.S. per 2005 information notifications MI-US-05-005 and MI-US-05-006. Specifically, Germany is requesting more detailed information on the denials to ascertain whether the goods in the pending German application are the same. In addition, Germany requests additional information on the reason for the U.S. denials and the proliferation activities of the end-user, Vikram Sarabhai Space Center, Department of Space of the Government of India.

3. (C) Begin German non-paper:

In accordance with the MTCR "no undercut" policy, we would like to consult with the United States Government on the following matter:

A German company has applied for a so-called "zero notice" (Nullbescheid, i.e., a certificate that a certain good does not require an export authorization) for delivery of 14,280 kilograms of extruded aluminum plates to the Vikram Sarabhai Space Center, Department of Space of the Government of India, in Thiruvananthapuram, India. The stated end-use is for structural parts to be used in geosynchronous satellite launch vehicles. The plates, sized 18 by 1600 by 2500 millimeters, have the alloy denomination AA 2014-T651/AMS 402 and are capable of an ultimate tensile strength of 370 MPa at 293 K (200 C). The plates are not in the form of tubes or cylindrical solid forms; thus, are not listed in Annex I to Council Regulation (EC) No. 1334/2000 of June 22, 2000, which establishes a (European) Community regime for the control of exports of dual-use items and technology (Annex I items 1C002.a.2.d.2 and 1C202.a e contrario). The stated civil end-use is plausible from a technical point of view.

In connection with this end-user, the United States has submitted information notifications MI-US-05-005 and MI-US-05-006 (notices for export denials). Due to the lack of detail on the goods in these notifications, we are not at present in a position to assess whether the goods referred to in the above mentioned notifications are the same as the goods denoted in our "zero notice" application in question. Before making a final decision on the application, we would be grateful for detailed information on the reasons behind the information notifications (denials), and in particular, whether the United States has information pertaining to proliferation activities of the end-user, the Vikram Sarabhai Space Center, Department of Space of the Government of India, in Thiruvananthapuram, India.

A reply before November 17, 2009, would be much appreciated. The reference no. is 1040302. We look forward to continuing our excellent export control cooperation.

14. (SBU) ACTION REQUEST: Post requests Department guidance in responding to the questions posed in the German non-paper.
Murphy